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5 BEFORE THE HEARING BOARD OF THE
6 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
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8 **In the Matter of**

9 SOUTH COAST AIR QUALITY
10 MANAGEMENT DISTRICT,

11 Petitioner,

12 vs.

13 RIDGELINE ENERGY SERVICES (USA)
14 INC., a wholly owned subsidiary of RDX
15 TECHNOLOGIES CORPORATION,

16 [Facility ID No. 174568]

17 Respondent.

CASE NO. 5954-1

**FINDINGS AND DECISION FOR A
MODIFIED STIPULATED ORDER FOR
ABATEMENT**

District Rules 203(a), 402 and California
Health and Safety Code § 41700

Date: November 6, 2013

Time: 10:00 a.m.

Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

18 **FINDINGS AND DECISION OF THE HEARING BOARD**

19 On November 6, 2013, pursuant to notice and in accordance with the provisions of
20 California Health and Safety Code Section 40823 and District Rule 812, a public hearing was held.
21 The following members of the Hearing Board were present: Edward Camarena, Chair; Julie
22 Prussack, Vice Chair; Clifton V. Lee, M.D; Patricia Byrd; and David Holtzman. Petitioner, the
23 Executive Officer of the South Coats Air Quality Management District (hereinafter referred to as
24 "District" or "Petitioner") was represented by Karin Manwaring, Senior Deputy District Counsel.
25 Respondent RDX Technologies Corporation (hereinafter referred to as "Ridgeline" or
26 "Respondent"), was represented by Albert M. Cohen. The public was given the opportunity to
27 testify. The evidence received and the matter was submitted. The Hearing Board finds and decides
28 as follows:

1 **FINDINGS OF FACT**

2 1. Petitioner is a body corporate and politic established and existing pursuant to Health
3 and Safety Code §40000, *et seq.* and §40400, *et seq.*, and is the sole and exclusive local agency
4 with the responsibility for comprehensive air pollution control in the South Coast Basin.

5 2. Respondent operates a wastewater treatment plant within the District's jurisdiction
6 and subject to the District's regulations located at 12345 Lakeland Road, Santa Fe Springs,
7 California 90670 (Facility ID No. 174568) ("Facility").

8 3. On August 21, 2013, Ridgeline Energy Services changed its name to RDX
9 Technologies Corporation ("RDX"). Ridgeline Energy Services (USA), INC., is a wholly owned
10 subsidiary of RDX.

11 4. Respondent's wastewater treatment operation includes the use of several historic
12 storage tanks, including a tank previously used for treatment, referred to as Tank 63 (hereinafter
13 "Tank 63"). Respondent operates or operated storage tanks and/or other equipment without valid
14 permits to operate so as to be in violation of District Rule 203(a).

15 5. Respondent's wastewater treatment operations also include two newly developed
16 proprietary water treatment systems. The systems are composed of different types of technologies
17 that work together and can be tuned to process different types of waste. One system is configured
18 to process wastewater containing fats, oil and greases ("FOG"). The FOG system, which is in
19 operation and is vented to air pollution control equipment, is able to separate the FOG material for
20 further processing into bio fuels. The second system, which has not yet been operated, can be
21 tuned to treat a broader range wastewater, including clarifier waste from different industries.

22 6. **District Rule 203(a)** requires, in relevant part, that a permit be obtained from the
23 District's Executive Officer to operate or use any equipment which causes or controls the issuance
24 of air contaminants into the atmosphere.

25 7. **District Rule 219(s)(2)** states, in relevant part, that notwithstanding the exemptions
26 from District permit requirements found in District Rule 219, written permits are required where
27 the Executive Officer has determined that the equipment may not operate in compliance with all
28 applicable District Rules and Regulations.

1 **8. District Rule 402 and Health and Safety Code (“H&S Code”) Section 41700**

2 states in relevant part, that a person shall not discharge from any source whatsoever such quantities
3 of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any
4 considerable number of persons or the public, or which endanger the comfort, repose, health or
5 safety of any such persons or public, or which cause, or have a natural tendency to cause, injury or
6 damage to business or property.

7 9. Pursuant to Health & Safety Code, section 42451, the legislature intended hearing
8 boards to issue orders to abate odor public nuisances.

9 10. California Health & Safety Code, section 42350(b)(1), does not preclude a hearing
10 board from issuing orders for abatement from permit to construct requirements in appropriate
11 circumstances, unless an order for abatement has the effect of a variance and the prerequisite six
12 findings are met.

13 11. The prerequisite six findings found in Health & Safety Code, section 42352, are not
14 met and not intended to be met by this Stipulated Order for Abatement, and this Stipulated Order
15 for Abatement is not and does not act as a variance.

16 12. Respondent was issued Notice of Violation (NOV) P53792 on or about June 12,
17 2013 for violations of District Rule 203(a), for the operation of wastewater storage and treatment
18 equipment without valid permits to operate.

19 13. On July 31, 2013, the District issued to Respondent a second Notice of Violation
20 (NOV 53785) for violations of District Rule 203(a), for the operation of wastewater storage and
21 treatment equipment without valid permits to operate.

22 14. Despite receiving these Notices of Violation, Respondent continues to operate in
23 violation of District Rules 203(a).

24 15. The District also issued Notices to Comply on two occasions. Following an
25 inspection on June 21, 2013, and in response to numerous odor complaints, the District issued
26 Notice of Comply no. E07781 on July 13, 2013. The Notice to Comply requested records,
27 including among other items, records pertaining to the wastewater treatment systems, hours of
28 operation, and sources of wastewater treated at the Facility.

1 16. On August 7, 2013, the District issued a second Notice of Comply no. E07782,
2 seeking additional information about Respondent's operations. The District continues to evaluate
3 the sufficiency of the responses provided to date to these Notices of Comply.

4 17. Respondent's operations have also been determined to be the source of a public
5 nuisance in violation of District Rule 402 and California Health and Safety Code Section 41700.
6 On multiple occasions, the source of the nuisance on has been determined by the District to be
7 Tank 63. On other occasions, other historic storage tanks have been determined by the District to
8 be the source of the nuisance.

9 18. Between January 2013 and August 2013, the District received numerous odor
10 complaints (over 350) related to Respondent's operations and, as a result, has taken enforcement
11 action for a public nuisance on six separate occasions in 2013.

12 19. The majority of complaints were received between July 28, 2013 and July 31, 2013,
13 as a result of an event related to damage to Tank 63 combined with a malfunctioning air pollution
14 control device.

15 20. The enforcement actions taken by the District, as of the August 20, 2013, hearing
16 including the six separate Notices of Violation for a public nuisance in violation of District Rule
17 402 and California Health and Safety Code Section 41700, the two Notice of Violations for
18 violation of District Rule 203(a), and the two Notices to Comply are summarized below:

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	Enforcement Action	Rule	Notice Number	Date of Violation	Date of Issuance
1.	Notice to Comply	N/A	E07781	N/A	07/23/2013
2.	Notice of Violation	203(a)	P53792	04/05/2013	06/12/2013
3.	Notice of Violation	402; H&S §41700	P61009	05/22/2013	06/12/2013
4.	Notice of Violation	402; H&S §41700	P53780	06/21/2013	07/03/2013
5.	Notice of Violation	402; H&S §41700	P61010	06/24/2013	07/10/2013
6.	Notice of Violation	402; H&S §41700	P57732	07/29/2013	07/29/2013
7.	Notice of Violation	402; H&S §41700	P53799	07/30/2013	07/30/2013
8.	Notice of Violation	203(a)	P53785	07/31/2013	07/31/2013
9.	Notice to Comply	N/A	E07782	N/A	08/07/2013
10.	Notice of Violation	402; H&S §41700	P57733	08/14/2013	08/15/2013

21. On August 20, 2013, the Hearing Board issued a Stipulated Order for Abatement ("Stipulated Order") seeking to prevent further public nuisances, however odor complaints continued.

22. Since the hearing on August 20, 2013, the District continued to respond to and investigate odor complaints at the Facility. Between August 20, 2013 and October 15, 2013, the District received over 600 complaints. Complaints were received almost daily but the problem intensified on or about October 9, 2013.

23. On October 9, 2013, the District responded to a significant number of complainants and verified odors with the complainants and at the Facility. District staff identified Tank no. 39 as the source of the odors, noting that the tank was in poor condition evidenced by visible holes in the tank's roof and various separations in the seams of the storage tank. District took enforcement action again resulting in the issuance of Notice of Violation (NOV P57239) for a public nuisance.

24. Between October 10, 2013 and October 15, 2013, the number of complaints continued to increase. The District received over 500 complaints during this time period. For odor events occurring on October 12th, 13th, and 14th (the "October event") public nuisance incidents

were documented resulting in the issuance of three (3) additional Notices of Violation (P57240, P57241 and P57242 respectively).

25. The enforcement actions taken by District since the hearing held on August 20, 2013, are summarized below.

	Enforcement Action	Rule	Notice Number	Date of Violation	Date of Issuance
1.	Notice of Violation	402; H&S §41700	P57239	10/09/2013	10/10/2013
2.	Notice of Violation	402; H&S §41700	P57240	10/12/2013	10/14/2013
3.	Notice of Violation	402; H&S §41700	P57241	10/13/2013	10/14/2013
4.	Notice of Violation	402; H&S §41700	P57242	10/14/2013	10/14/2013

26. On October 16, 2013, the Hearing Board held a status hearing and issued a modified Stipulated Order for Abatement ("modified Stipulated Order") seeking to prevent further public nuisances. Evidence was presented regarding Ridgeline's compliance with the Stipulated Order issued on August 20, 2013.

27. On November 6, 2013, the Hearing Board held a second status hearing and issued this second modified Stipulated Order for Abatement ("second modified Stipulated Order") seeking to prevent further public nuisances and ordering Respondent to drain the historic tanks, among other actions, including ordering a third status hearing to be held on December 11, 2013.

28. Members of the public testified during the November 6, 2013, status hearing that odors continue. However, the number of odor complaints received by the District decreased considerably and no additional enforcement action for a public nuisance has been taken since the October event.

29. Evidence was presented during the November 6, 2013, status hearing regarding Respondent's compliance status with the modified Stipulated Order, including Respondent's violations of Condition 1.A.i (Respondent added wastewater into Tank no. 8) and Condition G (Respondent did not yet procure air pollution control equipment so as to commence operation upon confirmation that permit applications were deemed complete).

30. As a result of the continuing public nuisance resulting from operations at the Facility, good cause exists to modify the Stipulated Order.

CONCLUSIONS

1. The parties to this modified Order for Abatement desire to prevent any further public nuisances from occurring and have stipulated to the conditions herein in order to reduce, avoid, and prevent the potential for future nuisance events that may result from the operation of Respondent's wastewater treatment systems.

2. This modified Order for Abatement is not and does not act as a variance. Respondent is subject to all rules and regulations of the District and to all applicable provisions of California law. Nothing herein shall be deemed or construed to limit the authority of the District to issue Notices of Violation, or to seek civil penalties or injunctive relief, or to seek further orders for abatement, or other administrative or legal relief.

3. The issuance of this modified Order for Abatement will not constitute a taking of property without due process of law.

4. The issuance of the prayed for modified Order for Abatement is not expected to result in the closing or elimination of an otherwise lawful endeavor, but if it does result in such closure or elimination, it would not be without a corresponding benefit in reducing air contaminants.

ORDER

THEREFORE, subject to the aforesaid statements and good cause appearing, Respondent is hereby ordered to immediately cease and desist from operating its Facility in a manner which violates District Rule 203(a), or District Rule 402 and H&S Code Section 41700, or in the alternative, to comply with the actions and conditions set forth below.

1. Respondent shall comply with the following conditions:

A. Respondent shall not receive any new wastewater at the Facility for storage or treatment in any historic tanks. For purposes of this Order, historic tanks include the following list of eighteen (18) tanks previously used by the former

oil refinery: Tank Nos. 4, 8, 9, 22, 25, 30, 37, 39, 45, 55, 57, 58, 59, 63, 64, 65, 66, and 90.

B. Respondent shall take appropriate steps to address the H₂S build up in the storage tanks, including the introduction of caustic as necessary into the storage tanks to control the generation of H₂S. Respondent shall maintain a pH of nine or more in Tanks 37, 55 and 63.

C. Respondent shall complete the draining of the historic tanks (meaning the water level is reduced to the level of sludge in the tanks) at the Facility in accordance with the following schedule:

i. Respondent shall, within thirty (30) days of this Order, complete draining and offsite disposal of wastewater from at least one of the historic tanks listed here: Tank 39, Tank 55, Tank 37, Tank 63 and Tank 8. Written notification shall be provided to both the District (attn Ed Pupka at EPupka@aqmd.gov) and the City of Santa Fe Springs (attn Fire Chief Crook at MikeCrook@santafesprings.org) within twenty-four (24) hours of completion.

ii. Respondent shall, within sixty (60) days of this Order, complete draining and offsite disposal of wastewater from at least two additional of the remaining historic tanks listed here: Tank 39, Tank 55, Tank 37, Tank 63 and Tank 8. Written notification shall be provided to both the District (attn Ed Pupka at EPupka@aqmd.gov) and the City of Santa Fe Springs (attn Fire Chief Crook at MikeCrook@santafesprings.org) within twenty-four (24) hours of completion.

iii. Respondent shall, within ninety (90) days of this Order, complete draining and offsite disposal of wastewater from the remaining two historic tanks listed here: Tank 39, Tank 55, Tank 37, Tank 63 and Tank 8. Written notification shall be provided to both the District (attn Ed Pupka at EPupka@aqmd.gov) and the City of Santa Fe Springs (attn Fire Chief Crook at MikeCrook@santafesprings.org) within twenty-four (24) hours of completion.

iv. Respondent shall, within one hundred and eighty days (180) days of this Order, complete draining and offsite disposal wastewater from all remaining historic tanks at the facility, with the exception of Tank 57. Written notification shall be provided to both the District (attn Ed Pupka at EPupka@aqmd.gov) and the City of Santa Fe Springs (attn Fire Chief Crook at MikeCrook@santafesprings.org) within twenty-four (24) hours of completion.

v. After wastewater is removed from the historic tanks, no new wastewater shall be introduced in the historic tanks. Tank 57 may be used for storage of potable fire suppression water.

1 vi. If Respondent is unable to comply with the schedule set forth above,
2 Respondent shall submit a timely petition to modify the Stipulated
3 Order for Abatement. If the schedule above is not complied with,
4 Respondent shall be prohibited from receiving any new wastewater on
site until and unless the Hearing Board issues a modified order with a
revised schedule for the draining and offsite disposal of wastewater
from the historic tanks.

5 D. Respondent shall continue treatment of wastewater in the new wastewater
6 treatment system for discharge in accordance with the terms and conditions of
7 the Amended Temporary Industrial Wastewater Discharge Permit, issued by the
8 Sanitation Districts of Los Angeles County ("Sanitation Districts") and in
9 accordance with any draft permit conditions issued by the District, unless the
District denies issuance of a Permit to Operate the new wastewater treatment
system.

10 E. Subject to Condition 1.C.vi, Respondent shall be permitted to process
11 wastewater through the FOG system, and may store that processed wastewater
12 on site, but shall not store any wastewater processed through the FOG system in
any historic tank.

13 F. Respondent shall continue to submit information requested by the District to
14 ensure complete applications for all equipment owned / operated by Ridgeline,
15 including but not limited to liquid receiving, storage, processing and treatment
16 vessels / tanks (including Baker Tanks), air pollution control devices /
17 equipment and internal combustion engines, are received for all equipment that
18 may be subject to permitting requirements pursuant to Rule 203 - Permit to
Operate. In the event that the District informs Respondent that a permit
application is not complete, then Respondent shall have five (5) business days
(defined for this condition as Tuesday through Friday) to submit the requested
additional information before the application will be considered not complete
for the purpose of this Order.

19 Applications shall be submitted for any such equipment / processes / operations
20 currently in use or intended for future use. Complete applications shall include
21 all relevant completed District forms, a process flow diagram of the waste water
22 storage and treatment system at the Ridgeline facility, process descriptions and
23 diagrams, profiles with chemical analyses of all liquid materials received,
24 stored, processed and treated, MSDS sheets of any chemicals used in the
process, proper permitting fees, and any other relevant information necessary
for evaluation of the permit application(s). Respondent shall request and pay
for expedited permit processing.

25 Complete applications shall demonstrate for all waste water treatment tanks and
26 process units that such equipment is vented to adequately designed air pollution
27 control equipment or systems, which shall be in full operation whenever the
28 tanks or waste water treatment system are in operation.

- 1 G. Respondent shall not treat wastewater for discharge in Tank no. 63. Contents
2 of Tank no. 63 shall be treated for discharge in the new wastewater system.
3 Respondent shall at all times operate in full use air pollution control equipment
4 vented from Tank no. 63 and shall maintain the air pollution control equipment
5 in good working order, until Tank no. 63 is drained of all liquid materials and
6 Respondent commences the tank degas/cleanout/ demolition process which is
7 the subject of the tank removal plan required by Condition L.
- 8 H. Respondent shall not return to service any historic tank for purposes of the
9 storage, transfer or treatment of wastewater after draining that tank of existing
10 wastewater. However, Tank no. 57 may continue to be used for the storage of
11 water for potable fire suppression.
- 12 I. Respondent shall install and then commence operation of each air pollution
13 control system associated with a wastewater storage tank referenced above
14 within 48 hours of delivery of the system to the facility. Respondent shall
15 provide written notification to the District within twenty-four (24) hours of
16 commencing operation for each air pollution control system (attn: Ed Pupka at
17 Epupka@aqmd.gov). Respondent shall continue in full operation and shall
18 maintain in good working order each air pollution control system until the tank
19 is emptied and Respondent commences the tank degas/cleanout/ demolition
20 process which is the subject of the tank removal plan required by Condition L.
- 21 J. Respondent shall keep an adequate supply of replacement carbon for the air
22 pollution control equipment onsite at all times. In the event of a breakdown or
23 need to conduct maintenance on air pollution control equipment, Respondent
24 shall have 24 hours in which to bring the equipment back into service.
25 Respondent shall comply with any draft permit conditions issued by the District
26 pertaining to the air pollution control equipment, including but not limited to
27 carbon replacement. In the event that more than 24 hours are required,
28 Respondent shall notify the District (attn Ed Pupka at Epupka@aqmd.gov) and
shall take all appropriate steps to expedite placing air pollution control
equipment back into operation.
- K. Respondent shall keep a lift on site during the term of this Order, or until the
historic tanks are taken down, whichever comes first, for the purpose of
inspecting tanks and implementing equipment repairs. Respondent shall
commence tank repairs within twelve (12) hours of observing deficiencies and/
or identifying or being informed of the need for repairs. Respondent shall
inspect each tank used for storage daily, including roofs, valves and manways.
Respondent shall keep reasonable supplies on site as necessary to implement
roof repairs. Respondent shall post and maintain weekly photographs of the
roofs of Tanks 8, 37, 39, 55 and 63 on a website and shall provide the address
of that website to the Hearing Board, the District and to the City of Santa Fe
Springs by November 12, 2013.
- L. Respondent shall, by November 15, 2013, concurrently submit for review to the
District and the City of Santa Fe Springs, a written plan with procedures and
protocols to safely remove and clean out, without causing the release of odors

1 to offsite residents / businesses, all petroleum residues / sludge / residual solids
2 from all historic tanks (except for Tank no. 57). The plan shall include, at a
3 minimum, an expedited schedule to complete the proposed clean-up and the
4 method of removal, treatment and / or off-site transport of the collected
5 materials. The plan shall also include a proposed schedule for the demolition of
6 all historic tanks. Respondent shall commence implementation of the plan,
7 within three (3) calendar days, of approval by the City of Santa Fe Springs.
8 Respondent shall, by November 15, 2013, submit a copy of the plan via email
9 to the Hearing Board (attention Clerk of the Board, at
10 ClerkofBoard@aqmd.gov).

11 M. Respondent shall comply with all provisions of Odor Monitoring and
12 Mitigation Plan (OMMP) as approved by the District's written Interim
13 Approval (issued September 27, 2013), including but not limited to all
14 monitoring, mitigation and recordkeeping provisions contained therein, until
15 and unless subsequent versions of the OMMP are approved by the District or
16 the OMMP is modified by the District Hearing Board. Thereafter, Respondent
17 shall implement the provisions of the subsequent version as approved by the
18 District or as modified by the District Hearing Board.

19 Respondent shall continue to document OMMP activities in a manner and
20 format approved by the District. These records shall be maintained by the
21 Respondent and immediately made available to the District upon request.

22 N. Respondent shall, upon notification that the District or the City of Santa Fe
23 Springs is detecting odors at the facility perimeter or beyond, or upon
24 notification by the District that three (3) or more complaints are received by the
25 District within an hour, immediately implement the odor control provisions of
26 the Odor Monitoring and Mitigation Plan. Records demonstrating
27 implementation of the Odor Monitoring and Mitigation Plan shall be
28 maintained in a manner and format approved by the District and immediately
made available upon request. The Respondent shall provide a contact phone
number on which an authorized responsible employee can be reached at any
time, 24 hours / day, to receive notification from the District about such odor
events.

O. Respondent shall provide supplemental responses to Notice to Comply E07157
within three (3) business days (defined as Tuesday through Friday) of receiving
written notice from the District describing deficiencies in the response provided
to date.

P. Respondent shall comply with requests by the Sanitation Districts for
information necessary to process the Industrial Wastewater Discharge permit
application. In the event that the Sanitation Districts informs Respondent that
the information is insufficient or incomplete, then Respondent shall have five
(5) business days (defined for this condition as Monday through Friday) to
supplement the requested information.

1 Q. Respondent shall, by November 15, 2013, prepare and submit a written report
2 summarizing the result of the meeting between the Respondent, the City of
3 Santa Fe Springs and the Sanitation District, held on November 5, 2013, and
4 shall provide a copy of that report to the Hearing Board (attention Clerk of the
Board, at ClerkofBoard@aqmd.gov), with a copy to Karin Manwaring (at
Kmanwaring@aqmd.gov).

5 2. The Hearing Board shall retain jurisdiction over this matter until November 6,
6 2014. If after one year from the date this modified Order for Abatement is issued, compliance
7 with District Rule 203(a), District Rule 402 and H&S Code Section 41700 has not yet been
8 achieved, this modified Order for Abatement shall expire if not properly modified or extended.

9 3. The Hearing Board may modify the modified Order for Abatement without the
10 stipulation of the parties upon a showing of good cause, therefore, and upon making the findings
11 required by Health and Safety Code Section 42451(a) and District Rule 806(a). Any modification
12 of the modified Order shall be made only at a public hearing held upon 10 days published notice
13 and appropriate written notice to Respondents.

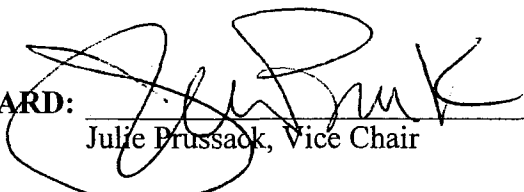
14 4. The Hearing Board scheduled a status hearing for December 11, 2013.

15 A. Respondent shall, at the next status hearing, report to the Hearing Board on a
16 final list of feasible odor control devices and technologies to be used to control
odors from the historic tanks.

17 B. Respondent shall, at the next status hearing, report to the Hearing Board on the
18 quickest feasible schedule to drain the historic tanks of sludge and other
19 materials.

20 5. Respondent shall obtain written confirmation from the District that final
21 compliance is achieved, and shall thereafter provide notification to the Clerk of the hearing Board
22 in writing when final compliance is achieved.

23
24 **FOR THE BOARD:**


Julie Prussack, Vice Chair

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26
27 **DATED:**

11/21/13